

EXHIBIT A

COMMUNICATION TOWER REVIEW REGULATION STILLWATER COUNTY, MONTANA

I. Purpose

The purpose of this regulation is to allow and encourage appropriate siting of communication towers and antennae on land within Stillwater County. The goals of this section are:

- A. encourage the location of non-obtrusive towers in appropriate areas and optimize the number of towers necessary to provide adequate coverage to the County;
- B. require the joint use of new and existing towers;
- C. require users of towers and antennae to locate such facilities in areas that create minimum adverse impact on location neighbors and visitors to the County;
- D. require towers and antennae to be constructed in a manner that minimizes the visual impact of same;
- E. ensure that fire and other emergency needs are adequately addressed by the system of cell towers existing and proposed in the County; and
- F. cooperate with homeowners' associations in the administration of subdivision covenants.

II. Definitions

Abandoned Tower Facility: Any tower facility that is not utilized for the provision of telecommunication services for a continuous period of six months shall be considered abandoned.

Alternative/Camouflaged Tower Facility: Tower facilities that are camouflaged or disguised by man-made trees, church steeples, light, utility, and flag poles, and similar, existing, high structures to help the tower facility blend with the surrounding setting.

Antenna: Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennae (such as panels, microwave dishes, and satellite dishes) and omni-directional antennae (such as whip antennae but not including satellite earth stations).

Antenna/Tower Height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating height. The height configuration includes the height off the portion of the building on which it may be mounted.

Antenna or Tower Farm: A tract of land containing three or more towers within 750 feet of each other.

Co-location: The use of a telecommunication facility by more than one telecommunications provider.

Commercial Telecommunications Service: A licensed commercial wireless telecommunication service including cellular, personal communication devices (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, radio and television broadcast, and similar services that are marketed to the public.

Communications Tower/Tower Facilities: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennae for commercial telecommunication services, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and other similar facilities, including the structure and any support thereto.

Equipment Enclosure: A structure used to house and protect the electronic equipment necessary for processing wireless communication signals. This includes associated equipment such as air conditioning, backup power supply, and chain-link fence.

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

Tower Facility: Any structure or device specifically designed, constructed, and/or erected for the purpose of attaching, mounting, or otherwise affixing antennae. Tower facilities may include, but not be limited to, self-supporting lattice towers, guyed towers, or monopole towers.

III. APPLICABILITY

All towers or antennae constructed within Stillwater County, except for the Columbus Zoning Jurisdiction, whether on private or public land shall be subject to this Regulation. This Regulation shall apply to such facilities on State and Federal land to the extent of the County's jurisdiction by way of law and pursuant to any memoranda of

understanding or otherwise. Only the following facilities shall be exempted from the application of this Regulation:

- A. Amateur radio stations and towers.
- B. Broadcast towers for radio and television.
- C. Pre-existing towers or antennae as long as such facilities received all required approvals prior to construction.
- D. Towers used primarily by Stillwater County or Emergency Services entities within Stillwater County. Applications will be required for these two categories for information only.

IV. GENERAL REQUIREMENTS

The following shall apply to all new construction of tower facilities in Stillwater County.

- A. **Best Available Technology:** All tower facilities shall be constructed and maintained to the most current engineering standards and use the best available technology for same.
- B. **Licensing:** It is understood that all tower facilities shall also meet all required FAA and FCC standards and licensing.
- C. **Setbacks:** All tower facilities shall be set back from property lines a minimum of 110 percent of the antenna/tower height.
- D. **Lighting:** No tower shall be artificially lighted unless required to be by the FAA or an agency of the State. If FAA requires lighting, a red beacon is preferred to a flashing strobe. Security lighting may extend 20 feet up from the base of the tower and must be directed toward the ground.
- E. **Signage** shall be limited to non-illuminated warning and equipment identification signs.
- F. **Co-location:**
 - 1. Tower Facilities shall be designed in all respects to accommodate multiple users. At the minimum, such facilities must be designed to accommodate the antennae of the applicant and two other users if the tower is over 100 feet high. If the tower is between 50 and 100 feet high, it must provide for one or two users in addition to the applicant.

2. All new antennae must collocate on existing or approved tower facilities unless the applicant can demonstrate such collocation is not feasible. Such feasibility shall not consider cost if such cost is less than the cost of a new facility.

G. Public Park and Land—Location of Tower Facilities: Tower Facilities may be located in parks containing commercial recreation areas and major playfields or collocated with park maintenance facilities. Tower facilities may also collocate on school properties.

H. Visual Impact/Aesthetics:

1. Towers shall have and be maintained with either galvanized steel finish, or, subject to applicable State or Federal requirements, be painted and maintained in a neutral color or painted or textured to match the existing structure in which it is located or associated.

2. Tower facilities attached to new or existing structures shall be designed to blend with the existing structure's vertical design architecture.

3. No new tower facilities shall be so located as to be visible to the naked eye within five (5) miles of any scenic areas in Stillwater County that have been formally designated by the State of Montana or the United States unless authorized by variance granted by the Stillwater County Commission.

4. No new tower facilities shall be located within historic or natural resource areas that have been formally designated by the State of Montana or the United States.

I. Stillwater County retains the right to co-locate County emergency communication facilities on any commercial tower in the County.

J. Existing or Non-Conforming Tower Facilities:

1. Existing tower facilities that do not meet the standards of this Regulation but were constructed in compliance with relevant laws existing at the time of construction may continue their present use but may not be expanded without coming into conformance with this Regulation.

2. Existing tower facilities that are damaged to an extent not exceeding 50 percent of the current value thereof may be repaired without compliance with this Regulation.

3. Damages to an existing tower facility that exceeds 50 percent of the value thereof may only be repaired in compliance with this Regulation.

4. The owner of a non-conforming tower facility may make minor modifications to the tower in order to improve its structural integrity, to accommodate collocated antennae or facilities, or to upgrade the facilities to current engineering, technological, or communications standards without having to meet the standards of this Regulation.

K. **Minor Modification to Complying Tower Facilities:** Minor modifications to existing towers that comply with this Regulation are allowed if such modifications are in concert with the original design of the tower facility. The addition of additional antennae to the existing tower as long as the addition does not add more than 20 feet to the height of the original, approved tower facility is considered a minor modification. Also, the minimum setback described in IV.C. above, must be adhered to even with extended height.

L. **Abandonment:** The Stillwater County Commission shall have the authority to determine abandonment of a tower facility. Stillwater County through its County Planning Department has the right to documentation from the facility owner regarding tower facility usage. If the tower facility is determined to be abandoned, the facility owner shall be so notified and provided 90 days to remove the facilities. Unless unusual circumstances are involved, after the 90 days, or following an extension of time for cause, the County may, at the property owner's expense, remove or cause to be removed the tower facilities at the property owner's expense. Such authority would be exercised by the Commission only following a determination by the Commission that private property rights would not be violated and that it would be in the best interest of the County to cause the tower facility to be removed.

V. APPLICATION PROCESS

A. **Submittal Requirements:** An application to locate a new tower facility in Stillwater County shall provide the following information to the County Planning Department on or before the first working day of the month before the month at which the Planning Board may review the application. The application will not be placed on the subsequent month's meeting of the County Planning Board, however, until the County Planner has determined that the application is complete and provides the information required for the Planning Board members to reach an informed decision as to the application. The County Planner shall so notify the applicant, via mail or email, of the deficiencies in the application and notify the applicant when the application will be considered by the County Planning Board, provided such deficiencies have been corrected. The following information must be included in the application (along with the Application Review Fee) for approval of a new tower facility:

1. Legal description of the site along with its general location referenced by County road milepost (actual or estimated) with distance to nearest community.
2. A site map with the following information shown ON the map:
 - a. north arrow
 - b. access road
 - c. dimension and size
 - d. location of proposed tower facilities by size dimension and height
 - e. topography of site at one-foot intervals

- f. location of lights and signage
 - g. adjacent land use and buildings, roads, vegetation, fences
 - h. adjacent property owners and addresses therefore
- 3. Name, address, email, and telephone of facility owner and the engineer therefore.
- 4. A map of the service area of the proposed facility.
- 5. Explanation of need for the proposed facility.
- 6. Map of other tower facilities in the County owned by the applicant.
- 7. Location of other tower facilities within five (5) miles of the proposed site.
- 8. Documentation of lighting requirements by State or Federal agencies.
- 9. Provide USGS maps showing visibility of the tower to County residents and visitors.
- 10. Demonstrate in writing to the reasonable satisfaction of the Planning Staff and Board that no existing or approved antennae support structure can accommodate the applicant's proposed tower facility. Statements as to tower supporting strengths, signal propagation coverage maps, service areas, equipment capabilities, etc. must be certified by an engineer registered in Montana and with the appropriate expertise. Such discussion must be in lay terms to the extent possible.
- 11. Provide professional analyses of the impact of the proposed tower facility on area wildlife, including bats and birds.
- 12. Co-location of new tower facilities does not require approval by the County.
- 13. Provide a hold-harmless provision for Stillwater County for any material or bodily damages caused by the tower facility to property or persons therein.
- 14. Proof of legal contract with the land owner.
- 15. Approval of Homeowners' Association or evidence of covenant compliance.
- 16. Detailed plans of tower, including height, diameter, support structures, color, composition, high wind engineering report, visual mitigation options, etc.
- 17. All variance requests should be made with the original application submission to the County Planning Department but no later than at a formal hearing with the County Planning Board.

B. County Planning Board Action: The County Planning Board shall approve, deny, or conditionally approve a cell tower application within ten working days of their meeting.

- 1. The Planning Board may, at its discretion, hold a duly advertised public hearing to receive input from the public regarding a proposed cell tower.
- 2. Denial of an application shall list the reasons for such denial. If denied, the applicant may resubmit an application which addresses and remediates the reasons for denial.

- C. **Stillwater County Commission Action:** The Commission shall approve, deny, or conditionally approve all variance requests (V.A.17.); consider appeals (VI.); and decide appropriate abandonment actions (IV.L.).

VI. APPEALS

If agreement between the Planning Board and the applicant cannot be reached, the applicant may appeal to the Board of County Commissioners for consideration of the Planning Board's recommendation. The County Commissioners may approve, conditionally approve, or deny the application.

VII. SEVERABILITY

If any section, sentence, or clause of this Regulation should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Regulation.